
(2014) 02 KL CK 0090
In the High Court Of Kerala
Case No : WP (C). No. 36519 of 2010 (L)

Alexander

APPELLANT

Vs

State of Kerala

RESPONDENT

Date of Decision : 25-02-2014

Acts Referred:

Citation : (2014) 02 KL CK 0090

Hon'ble Judges : A. Muhamed Mustaque, J

Bench : Single Bench

Advocate : Basant Balaji, Advocate for the Appellant; P. Maya, by Govt. Pleader, Advocate for the Respondent

Final Decision : Allowed

Judgement

A. Muhamed Mustaque, J.—The petitioner is a contractor. The petitioner approached this Hon"ble Court in Writ Petition No. 20357 of 2010 raising grievance that in spite of recommendation to release bills due to him and same had not been released to him due to the inaction of the 4th respondent. The learned single Judge as per judgment (Ext. P17) dated 03.09.2010 directed the 4th respondent to take appropriate action based on the recommendation for release of the bill amount. Thereafter, the 4th respondent issued Ext. P18 dated 12.10.2010 stating that termination of the work is without consulting him and an Vigilance Enquiry is pending in the matter and in view of the pendency of the Vigilance Enquiry, the bills submitted by the petitioner cannot be processed. Challenging Ext. P18, this writ petition is filed and also for consequential reliefs.

2. The petitioner has undertaken two works under MPLAD Scheme for Tsunami rehabilitation. Both works were terminated without completing the same due to reasons, according to the petitioner not attributable to him. It is evident from Ext. P1 issued by 2nd respondent that the work was terminated without risk and costs. This work was in respect of constructing old age home at Alappadu. Similarly work undertaken by the petitioner in respect of Community Health Centre in Alappadu Grama Panchayath also has been terminated without risk and

costs as evident from Ext. P6.

3. In the counter affidavit, it is stated that the 2nd second respondent terminated the work without the consent of the 4th respondent. It is also stated that the work being implemented under MPLAD Scheme, the District Collector(4th respondent) being Nodal Agency, the second respondent ought to have obtained consent from the 4th respondent before the termination. It is further stated that the matter has been reported to the Government and Chief Minister had ordered Vigilance Enquiry on the implementation of the Tsunami Works under the MPLADS and till the investigation is over, the 4th respondent will not be in a position to process Exts. P8 and P9.

4. Heard the learned counsel for the petitioner and the learned Government Pleader.

5. The 4th respondent has stated that he could not process due to Vigilance Enquiry pending in the matter. It is pertinent to note that Exts. P8 ad P9 are pending with 4th respondent since 2010 onwards. Now, almost 4 years has been lapsed from the date of submission of the bills. The petitioner is entitled for the payment of the bills based on the work executed by him. The alleged lapses on the part of the second respondent in not obtaining consent of the 4th respondent cannot be a reason to withhold the payment to the petitioner. No loss is attributed against the petitioner. Inordinate delay itself would justify the interference at the instance of this Court. If the Government or the 4th respondent fail to act within reasonable time, the action itself will become arbitrary warranting interference at the instance of this Court.

In the result, this writ petition is allowed. There shall be a direction to the 4th respondent to release payment of the bills raised by the petitioner as per Exts. P3, P4, P8 and P9 within a period of two months from the date of receipt of a copy of this judgment. However, this would be without prejudice to the pending Vigilance Enquiry in the matter.